

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PAUL CASALE and ANTHONY GARCIA,
on Behalf of Themselves and Others
Similarly Situated,

Plaintiffs,

- against -

08 Civ. 2173 (SAS)

STIPULATION AND ORDER

RAYMOND W. KELLY, Commissioner of the
New York City Police Department (NYPD);
CITY OF NEW YORK; JOHN/JANE DOES1-50
(NYPD Supervisory, Training and Policy Personnel);
JOHN/JANE DOES 51-100 (NYPD police officers);

Defendants.

IT IS HEREBY STIPULATED AND AGREED, upon the district court's full and complete review of the terms of this Stipulation, by and between the defendants Raymond W. Kelly, Commissioner of the New York City Police Department and the City of New York ("the City Defendants"), and plaintiffs Paul Casale and Anthony Garcia, and without prejudice to plaintiffs' right to seek further injunctive relief:

1. The City Defendants' position is that their current policy prohibits enforcement of New York Penal Law § 240.35(3) and New York Penal Law § 240.35(7). The City Defendants agree to abide by and reinforce this policy.
2. On April 21, 2008, the City Defendants sent a FINEST notice to all NYPD precincts and commands to be read at ten (10) consecutive roll calls reminding them that New York Penal Law § 240.35(3) and New York Penal Law § 240.35(7) are unconstitutional, and directing members of the service not to enforce these subsections. A copy of this

FINEST notice is attached as Exhibit A.

3. The City Defendants shall send notification to the Offices of the District Attorneys of Bronx, Queens, New York, Richmond and King Counties stating that New York Penal Law § 240.35(3) and New York Penal Law § 240.35(7) are unconstitutional and unenforceable.
4. The City Defendants shall send notification to Judge Juanita Bing Newton, Administrative Judge, Criminal Court, New York City, stating that New York Penal Law § 240.35(3) and New York Penal Law § 240.35(7) are unconstitutional, and requesting that appropriate notice be disseminated throughout the court system.
5. While this litigation is pending, the City of New York shall produce to plaintiffs on a monthly basis a report on all summonses issued from the date of the filing of the Complaint in this matter, March 4, 2008, for violations of New York Penal Law § 240.35(3) and New York Penal Law § 240.35(7), subject to an appropriate protective order agreed upon by the parties.

Dated: May 1, 2008
New York, New York

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By:



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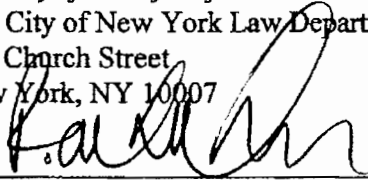
EARL WARD - ATTORNEY AT LAW
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(212) 763-5000


THE BRONX DEFENDERS
J. McGregor Smyth, Jr. (JS 9995)
860 Courtlandt Avenue
Bronx, New York 10451

Dated: May 1, 2008
New York, New York

MICHAEL A. CARDOZO,
Corporation Counsel
For the City of New York
Attorneys for City Defendants
The City of New York Law Department
100 Church Street
New York, NY 10007

By: 
Rachel Seligman Weiss (RS 6674)

SO ORDERED:


HON. SHIRA A. SCHEINDLIN

Dated: May 2, 2008